

Attorney Docket No.: 3399P066

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application for:

Tom R. Vandermeijden et al.

Serial No.: 09/945,414

Filing Date: 08/31/2001

For: METHOD AND APPARATUS FOR
USING CALLER ID INFORMATION IN
A BROWSER OF A MOBILE
COMMUNICATION DEVICEMail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Examiner: Elahee, MD S.

Art Unit: 2614

<u>Certificate of Transmission</u>	
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, fax number 571-273-0025, on:	
October 16, 2006	
(Date of Transmission)	
Chris Kunold	(Printed name)
Chris Kunold	(Signature)
10/16/06	(Date)

PETITION UNDER 37 C.F.R 1.183 FOR SUSPENSION OF THE RULES
AND REQUEST FOR LATE ENTRY OF AMENDMENT AFTER ALLOWANCE

Sir:

Applicant respectfully submits this petition under 37 C.F.R. 1.183 to request, in the interest of justice, suspension of 37 C.F.R. 1.312 to the extent that rule prohibits filing an amendment after payment of the issue fee, and further requests entry of the amendment enclosed with this petition. Also enclosed with this petition is the required petition fee under 37 C.F.R. 1.17(f).

On 8/23/2006 Applicant filed an amendment after allowance under 37 C.F.R. 1.312, concurrently with payment of the issue fee. The PTO denied entry of the amendment, as stated in the PTO's response mailed on 9/20/2006. The only stated

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reason for denying entry of the amendment was, "For example, currently amended Claim 51 affects the scope of the invention." As explained below, Applicant respectfully submits that it was improper to deny entry of the amendment.

First, as stated in the remarks of the amendment filed on 8/23/2006, that amendment was *responsive to the Examiner's Amendment* and was only submitted for the purpose of making the dependent claims more consistent with the independent claims as amended by *Examiner's Amendment*. Although Applicant's amendment filed on 8/23/2006 (and the amendment accompanying this petition) is not believed to be essential to preserve the patentability or validity of any claim, the amendment is nonetheless considered by Applicant to be necessary to place the claims in what Applicant considers to be appropriate form to best protect the invention in view of the Examiner's Amendment. Because the amendment was therefore 'necessitated' by the Examiner's Amendment, it would not be fair to prejudice Applicant by denying entry of an amendment after allowance or by requiring Applicant to withdraw the present application from issue to have such an amendment entered.

Further, Applicant submits that the amendment filed on 8/23/2006 did *not* in fact alter the scope of any claim; it was fully consistent with the Examiner's Amendment. Moreover, only *dependent* claims were amended in that amendment. Therefore, even assuming *arguendo* the amendment altered the scope of a claim or claims, it certainly did *not* alter the scope of any *independent* claim, and therefore, it could not affect the allowability of the present application.

With the foregoing in mind, the amendment which accompanies this petition is a modified version of the amendment filed on 8/23/2006, modified in an attempt to remove any doubt that the amendment does *not* alter the scope of any claim.

Applicant therefore respectfully submits that in the interests of justice, rule 312 should be suspended to the extent it prohibits filing an amendment after payment of the issue fee, and the amendment which accompanies this petition should therefore be entered.

If any additional fee is required, please charge deposit account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: October 16, 2006


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FEE TRANSMITTAL FOR FY 2006

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618).

TOTAL AMOUNT OF PAYMENT (\$) 400.00**FAX RECEIVED**

Complete if Known:

Application No. 09/045,414
 Filing Date 8/31/2001
 First Named Inventor Tom R. Vendermeijden
 Examiner Name Elahee, M.D.S.
 Art Unit 2614
 Attorney Docket No. 3399P066

OCT 16 2006

OFFICE OF PETITIONS

Applicant claims small entity status. See 37 CFR 1.27.

METHOD OF PAYMENT (check all that apply)Check Credit Card Money Order None Other (please identify) Deposit AccountDeposit Account Number : 02-2666

Deposit Account Name:

 The Director is Authorized to do the following with respect to the above-identified Deposit Account: Charge fee(s) indicated below. Charge any additional fee(s) or underpayment of fee(s) during the pendency of this application. Charge fee(s) indicated below except for the filing fee Credit any overpayments. Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

Warning: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

<u>Large Entity</u>	<u>Small Entity</u>	<u>Fee Description</u>	<u>Fees Paid (\$)</u>
Fee Code	Fee Code	Fee Description	
1011	300	2011 150 Utility application filing fee	1,000/500
1111	500	2111 250 Utility search fee	
1311	200	2311 100 Utility examination fee	
1012	200	2012 100 Design application filing fee	
1112	100	2112 50 Design search fee	430/215
1312	130	2312 65 Design examination fee	
1013	200	2013 100 Plant filing fee	
1113	300	2113 150 Plant search fee	660/330
1313	160	2313 80 Plant examination fee	
1004	300	2004 150 Reissue filing fee	
1114	500	2114 250 Reissue search fee	1,400/700
1314	600	2314 300 Reissue examination fee	
1005	200	2005 100 Provisional application filing fee	

SUBTOTAL (1) \$ 0.00

2. EXCESS CLAIM FEES

				<u>Extra Claims</u>	<u>Fee from below</u>	<u>Fees Paid (\$)</u>
Total Claims	- 20 or HP =			X \$50.00	=	
HP = highest number of total claims paid for, if greater than 20						
Independent Claims	- 3 or HP =			X \$200.00	=	
HP = highest number of independent claims paid for, if greater than 3						
Multiple Dependent Claims					=	
Large Entity	Small Entity					
Fee Code (\$)	Fee Code (\$)	Fee Description				
1202 50	2202 25	Each claim over 20				
1201 200	2201 100	Each independent claim over 3				
1203 360	2203 180	Multiple dependent claims, if not paid				
1204 200	2204 100	Reissue: each claim over 20 and more than in the original patent				
1205 50	2205 25	Reissue: each independent claim more than in the original patent				
SUBTOTAL (2) \$ 0.00						

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each add'l 50 or fraction thereof</u>	<u>Fee from below</u>	<u>Fees paid (\$)</u>
	- 100 = _____ / 50 = _____ (round up to whole number)	X \$250.00		

Large Entity	Small Entity	Fee Description: Application size fee for each additional group of 50 sheets beyond initial 100 sheets (count spec & drawings except sequences & program listings):
Fee Code (\$)	Fee Code (\$)	
1081 250	2081 125	Utility
1082 250	2082 125	Design
1083 250	2083 125	Plant
1084 250	2084 125	Reissue

SUBTOTAL (3) \$ 0.00

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FEE CALCULATION (continued)**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

<u>Large Entity</u>	<u>Small Entity</u>	<u>Fee Description</u>	<u>Fees Paid (\$)</u>
Fee	Fee	Fee	
Code	(\$)	Code	(\$)
1051	130	2051	65
1052	50	2052	25
1053	130	1053	130
1812	2,520	1812	2,520
1813	8,800	1813	8,800
1804	920*	1804	920*
1805	1,840*	1805	1,840*
1251	120	2251	60
1252	450	2252	225
1253	1,020	2253	510
1254	1,590	2254	795
1255	2,160	2255	1,080
1401	500	2401	250
1402	500	2402	250
1403	1,000	2403	500
1451	1,510	1451	1,510
1452	500	2452	250
1453	1,500	2453	750
1501	1,400	2501	700
1502	800	2502	400
1503	1100	2503	550
1462	400	1462	400
1463	200	1463	200
1464	130	1464	130
1807	50	1807	50
1806	180	1806	180
8021	40	8021	40
1809	790	2809	395
1814	130	2814	65
1810	790	2810	395
1801	790	2801	395
1802	900	1802	900
1504	300	1504	300
1505	300	1505	300
1803	130	1803	130
1808	130	1808	130
1454	1,370	1454	1,370

Other fee (specify) _____

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (4) \$ 400.00**SUBMITTED BY:**Typed or Printed Name: Jordan M. BeckerSignature: M. BeckerDate: October 16, 2006Reg. Number: 39,602Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450